



JAN 06, 2025

**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Chao v Sheikh Ahmed, 2025 ONLTB 2204

Date: 2025-01-06

File Number: LTB-L-055631-24

In the matter of: ROOM#1, 12 BEATTIE AVE
ETOBICOKE ON M9W2M3

Between: Michael Chao Landlord

And

Omar Sheikh Ahmed Tenant

Michael Chao (the 'Landlord') applied for an order to terminate the tenancy and evict Omar Sheikh Ahmed (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was heard by videoconference on November 25, 2024.

The Landlord and the Tenant attended the hearing.

Determinations:

L1- Rent Arrears Application

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$892.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$29.33. This amount is calculated as follows: \$892.00 x 12, divided by 365 days.
5. The Tenant has paid \$3,484.00 to the Landlord since the application was filed.
6. The rent arrears owing to November 30, 2024, are \$126.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The total arrears owed by the Tenant is less than 15% of one month of rent. I find that evicting a Tenant based on such a low amount of arrears would be unreasonable under the circumstances. Pursuant to section 83(1)(a) of the *Residential Tenancies Act, 2006*, (the 'Act'), I find that it would not be unfair to grant relief from eviction based on the L1-rent arrears application. Therefore, the Tenant shall only be ordered to pay the Landlord the outstanding amount of rent arrears owing up until November 30, 2024, and the filing fee.

L2- Landlord's Own Use Application

9. On May 28, 2024, the Landlord served the Tenant an N12 notice of termination with the termination date of July 31, 2024. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation for their own use.
10. It is not contested that the Landlord has paid the Tenant compensation in accordance with section 48.1 of the Act. The payment of \$892.00 was made by cheque on June 20, 2024.
11. Both parties agree that the rental complex consists of several rental units in the form of rooms for rent. Some rooms were rented for long-term use while others are rented as short-term rentals.
12. The rental complex is a seven-bedroom house. The rental unit is the master bedroom which has its own washroom. The Tenant shares the kitchen with other tenants in the rental complex.
13. The Landlord testified that they are seeking to move into the rental unit because of the dissolution of the Landlord's marriage. The Landlord is seeking to sell the house in which they are currently living and moving into the Tenant's rental unit.
14. The Landlord has testified that he has shared custody of two children, ages 3 and 5. If the Board grants his application, the Landlord will then seek to move the children into other rooms in the rental complex, possibly issuing another N12 to another tenant to give the children their own room.
15. The Landlord's current home is not listed on the market as of yet because the Landlord believes that the housing market will rebound in 2025 due to the lowering of interest rates, and the Landlord will be able to get a better return on the sale of the house at that point.
16. The Tenant is 74 years old and is currently recovering from heart surgery.
17. The Tenant believes the Landlord is acting in bad faith, however, that belief is on the fact that the Landlord already owns a house.
18. The Tenant submitted that he may be moving out of the rental unit soon, because he had just completed several interviews with Toronto Housing, and believes, based on feedback from the interviews, that he may be moving into one of these rental units within the next 6 months.

L2- Analysis

19. Pursuant to section 48(1)(a) of the Act, a Landlord may terminate the tenancy when the Landlord, in good faith, requires possession of the rental unit for residential occupation. As

a result, the onus is on the Landlord to establish that they, in good faith, require the rental unit for their own residential occupation for the period of at least one year.

20. The test for good faith is based on a “genuine intention to occupy the premises and not reasonableness of the landlord’s proposal” as is established in *Feeney v. Noble*, 1994 CanLII 10538 (ON SC), and supported in *Salter v. Beljinac* 2001 CanLII 40231 (ON SCDC). Furthermore, *Salter* also states that the motives of the landlord in seeking possession of the property are largely irrelevant and that the only issue is whether the landlord has a genuine intent to reside in the property.
21. However, pursuant to the ruling of *Fava v. Harrison*, 2014 ONSC 3352, the Board can consider the conduct and motives of a landlord in order “to draw inferences as to whether the landlord desires, in good faith, to occupy the property.”
22. Based on the Landlord’s testimony, I find that, on a balance of probabilities, that the Landlord is making this application in good faith and that they intend to move into the rental unit and reside there for a period of at least one year. There were no submissions regarding any past conduct that may put into question the Landlord’s motives. For that reason, I have little reason to doubt the Landlord’s establishment of requiring this rental unit in good faith for a period of at least one year for residential use.

Relief From Eviction- L2 Application


23. The Tenant has testified that they have resided at the unit for a number of years. The Tenant has also testified that he is a senior citizen who is recovering from heart surgery.
24. The Tenant also stated that he may be moving out of the rental unit within 6 months of the hearing to reside at Toronto Housing, which would offer him a larger residence for less rent.
25. Conversely, the Landlord testified that they have not put their house on the market as of yet. I have not heard any compelling testimony from the Landlord that they require possession of this rental unit on an urgent basis, other than they are still cohabitating with their spouse.
26. I find that giving the Tenant until July 31, 2025, would be reasonable. If the Tenant is in fact moving to Toronto Housing sooner than 6 months, the Landlord will get possession of the rental unit sooner. However, if for some reason the accommodations with Toronto Housing does not work out as anticipated, the Tenant will have additional time to find a new place to reside. This additional time takes into consideration the heated rental market in the GTA, and how the Tenant’s age and recovery from heart surgery will affect his ability to find a new place.
27. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until July 31, 2025, pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before July 31, 2025.

2. If the unit is not vacated on or before July 31, 2025, then starting August 1, 2025, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after August 1, 2025.
4. The Tenant shall pay to the Landlord \$126.00 for unpaid rent owing up to November 30, 2024.
5. The Tenant shall also pay the filing fee for the L1 application of \$186.00.
6. The total amount the Tenant owes the Landlord is \$312.00.
7. If the Tenant does not pay the Landlord the full amount owing on or before July 31, 2025, the Tenant will start to owe interest. This will be simple interest calculated from August 1, 2025, at 5.00% annually on the balance outstanding.

January 6, 2025
Date Issued



Robert Brown
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on January 1, 2026, if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.